IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.508 OF 2006

Mohd Sakib Abdul Qayyum Khan ...Petitioner

V/s.

The State of Maharashtra & Anr. ...Respondents.

Shri.J.S. Kini for the petitioner.
Shri.Suresh Kumar for respondent No.2.
Mrs.M.M. Deshmikh APP for respondent No.1.

CORAM : V.M. KANADE, J

DATED : 03/08/2006

P.C.:-

1. By this petition, petitioner is seeking the order of this court for quashing criminal case No.1002/PW/2005 in the court of Metropolitan Magistrate, Mazgaon, which is filed by the respondent U/s.324, 326 r/w 34 of IPC.

2. It is submitted that original complainant does not wish to prosecute complaint against the petitioner. Complainant appeared through his counsel and filed affidavit stating that he does not wish to prosecute the petitioner and the case which was filed against him

has been disposed of and and he has been acquitted. I had directed learned APP to take instructions. The concerned I.O. is also present before the court who submits that parties have amicably settled the matter. Apparently, no pressure has been exercised on the complainant in the present case. Complainant is present in the court. I have asked the complainant whether he seeks to pursue the criminal case. He submitted that he has filed affidavit on his own free will and no pressure has been exercised on him and in the affidavit he specifically stated that parties have settled the matter amicably.

3. Considering the peculiar facts and circumstances, in my view, prosecution against the petitioner is liable to be quashed in the interest of justice by exercising criminal jurisdiction of this court U/s.482 of Cr.P.C. because ordinarily case which is not compoundable should not be quashed by the court because intention of the legislature in making the case non compoundable is to ensure that the offence should be treated as crime against society and accordingly prosecution should conduct the case against the accused. However, in case where counter complaints are

filed by one party against other and one case has been disposed of against one of the parties and other case is also settled in order to ensure peace, particularly when parties are residing in the same locality, it is in the best interest of the society that the matter is settled. Therefore, in my view, this is a fit case for quashing the complaint. Writ petition is made absolute in terms of prayer clause A. Rule is made absolute accordingly.

V.M. KANADE, J.